

IN THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION

**FILED**  
U.S. DISTRICT COURT  
EASTERN DISTRICT ARKANSAS

MAY 25 2012

JAMES W. McCORMACK, CLERK  
By: James DEP CLERK

WINNIE SIMS CAMP, AS SURVIVING  
WIFE AND PERSONAL REPRESENTATIVE  
OF SAM THOMAS CAMP, DECEASED; AND  
WINNIE SIMS CAMP AS ADMINISTRATRIX  
OF THE ESTATE OF SAM THOMAS CAMP,  
DECEASED,

Plaintiff

VS.

UNITED STATES OF AMERICA

Defendant

4:12-CV-313 DPM

This case assigned to District Judge Marshall  
and to Magistrate Judge Young

COMPLAINT AT LAW

COUNT I.

PARTIES JURISDICTION, SERVICE OF PROCESS, AND VENUE

1. This is a medical malpractice case involving the wrongful death of Sam Thomas Camp.
2. Plaintiff and Administratrix Winnie Sims Camp resides at 3423 S Chester Street, Little Rock, Arkansas 72206.
3. The Defendant is the United States of America.
4. This Federal District Court has jurisdiction of this cause, because this action is brought pursuant to and in compliance with 28 U.S.C. §§1346(b), 2671-2680 et seq., commonly known as the "Federal Tort Claims Act", which vests exclusive subject matter jurisdiction of

Federal Tort Claims litigation in the Federal District Court.

5. The United States of America may be served with process in accordance with Rule 4(i)(1) of the Federal Rules of Civil Procedure by serving a copy of the Summons and Complaint on U.S. Attorney Christopher R. Thyer, by certified mail, return receipt requested, at his office, United States Attorney, 425 West Capitol Avenue, Suite 500, Little Rock, Arkansas 72201, to the attention of the Civil Process Clerk; by serving a copy of the Summons and Complaint on Eric H. Holder, Jr., Attorney General of the United States, by certified mail, return receipt requested, at the Attorney General's Office, 10<sup>th</sup> and Constitution Avenue, N.W., Washington, DC 20530, to the attention of the Civil Process Clerk; and by serving a copy of the Summons and Complaint on Eric K. Shinseki, Secretary of the Department of Veteran Affairs, by certified mail, return receipt requested, at 810 Vermont Avenue NW, Washington, DC 20120.

6. Venue is proper in this district pursuant to 28 U.S.C. §1391(e), as the United States is a Defendant and a substantial part of the events or omissions giving rise to the claim occurred in this district.

## **COUNT II.**

### **LIABILITY OF THE UNITED STATES OF AMERICA**

7. This case is commenced and prosecuted against the United States of America pursuant to and in compliance with Title 28 U.S.C. §§2671-2680, commonly referred to as the "Federal Tort Claims Act". Liability of the United States is predicated specifically on Title 28 U.S.C. §§ 1346(b)(1) and 2674 because personal injuries, wrongful death, and resulting damages of which complaint is made, were proximately caused by the negligence, wrongful acts and/or

omissions of employees of the United States of America at the VA Medical Center in Little Rock, Arkansas, while acting within the scope of their office or employment, under circumstances where the United States of America, if a private person, would be liable to the Plaintiff in the same manner and to the same extent as a private individual under the laws of the State of Arkansas.

**COUNT III.**

**JURISDICTIONAL PREREQUISITES**

8. Plaintiffs plead pursuant to Title 28 U.S.C. §§ 2672 and 2675(a), that the claims set forth herein were filed with and presented administratively to the Defendant's agency, the Department of Veterans Affairs, on June 1, 2011, for the claim of Plaintiff Winnie Sims Camp, Individually and on Behalf of the Estate of Sam Thomas Camp, Deceased. Over six months have passed since the filing of Plaintiff's claim. The Plaintiff has complied with all jurisdictional prerequisites and conditions precedent to commencement and prosecution of this litigation.

**COUNT IV.**

**THE DEPARTMENT OF VETERANS AFFAIRS IS AN AGENCY OF**

**THE UNITED STATES OF AMERICA**

9. The Department of Veterans Affairs is an agency of the United States of America. The United States of America, Defendant herein, through its agency, the Department of Veterans Affairs, at all time material hereto, owned, operated and controlled the health care facility known as VA Medical Center, located in Little Rock, Arkansas, and through its agency, the Department

of Veteran Affairs, staffed said health care facility with its agents, servants, and/or employees.

**COUNT V.**

**EMPLOYMENT AND COURSE AND SCOPE**

10. At all times material hereto, all persons involved in the medical and health care services provided to Plaintiff's decedent at the VA Medical Center, located in Little Rock, Arkansas, were agents, servants, and/or employees of the Department of Veteran Affairs, or some other agency thereof, and were at all times material hereto, acting within the course and scope of such employment.

**COUNT VI.**

**FACTS**

11. This is a Federal Tort Claims Action for monetary damages sustained by Plaintiff resulting from personal injuries and the wrongful death of Sam Thomas Camp as a result of substandard, and therefore, negligent medical care.

12. This claim concerns the substandard medical and hospital care provided by agents, servants, and employees of the United States government at the VA Medical Center in Little Rock, Arkansas resulting in the death of Sam Thomas Camp, on August 20, 2010.

13. On or about February 4, 2008, and June 21, 2008, Sam Thomas Camp underwent CT scans at the VA Medical Center in Little Rock, Arkansas, due to his complaints of low abdominal pain.

14. The primary diagnosis of the CT scan on or about February 4, 2008, stated,

“Suspicious for New Malignancy. Need FU”.

15. The primary diagnosis of the CT scan on or about June 21, 2008, stated, “Abnormality. Follow-up Needed”.

16. Although both of the above-mentioned CT scans were abnormal and the radiology reports stated that follow-up was needed, VA personnel failed to follow-up on either of these test results.

17. In July 2010, Mr. Camp entered Baptist Medical Center where he was diagnosed with adenocarcinoma.

18. Due to the failure by the medical care providers at the VA, Mr. Camp’s cancer metastasized and caused his death on August 20, 2010.

## **COUNT VII.**

### **CAUSE OF ACTION AGAINST THE UNITED STATES OF AMERICA**

#### **MEDICAL MALPRACTICE**

19. Plaintiff incorporates the above-numbered paragraphs as if fully set forth herein;

20. At all times relevant hereto, Defendant United States of America, by and through its agents, servants and/or employees of the Department of Veterans Affairs who treated and cared for Plaintiff’s decedent at the VA Medical Center in Little Rock, Arkansas, was under a duty to properly and timely treat, care for, diagnose, monitor, evaluate, observe, admit for hospitalization, perform radiological studies, make appropriate referral, provide treatment, and obtain appropriate consultation for Plaintiff’s decedent Sam Thomas Camp, during the course of his treatment from February 2008 until the time of his death on August 20, 2010.

21. Defendant, the United States of America, by and through its agents, servants and/or employees of the Department of Veterans Affairs who treated and cared for Plaintiff's decedent at the VA Medical Center in Little Rock, Arkansas, violated the standard of care and was negligent in its care and treatment of Sam Thomas Camp in the following ways, including but not limited to:

- a. Failing to properly and timely treat Sam Thomas Camp;
- b. Failing to properly and timely care for Sam Thomas Camp;
- c. Failing to properly and timely diagnose Sam Thomas Camp;
- d. Failing to properly and timely evaluate the CT scans in February 2008, and/or June 2008 performed on Sam Thomas Camp;
- e. Failing to properly and timely perform additional studies/procedures/tests and/or treatment following the 2008 CT scans in February 2008, and/or June 2008;
- f. Failing to properly follow-up on the recommendations made at the time of the CT scans in February 2008, and/or June 2008;
- g. Failing to properly and timely refer and/or obtain a consultation on Sam Thomas Camp's case following the CT scans in February 2008, and/or June 2008; and
- h. Failing to properly and timely provide the necessary treatment to Sam Thomas Camp.

22. At all times mentioned herein, the employees, agents, and/or representatives of the United States Government were negligent and proximately caused Sam Thomas Camp's

wrongful death and all of the other injuries and damages sustained by the Plaintiff.

**COUNT VIII.**

**MEANING OF "DEFENDANT"**

23. In the Complaint, whenever the term "Defendant" is used, it means Defendant, Defendant's officers, agents, servants, employees, and/or representatives. Whenever in this Complaint it is alleged that Defendant did any act or thing, it is meant that Defendant, Defendant's officers, agents, servants, employees, and/or representatives did such act or thing, and that at the time such act or thing was done, it was done with the full authorization and ratification of Defendant and was done in the normal and routine course and scope of employment of Defendant's officers, agents, servants, employees, and/or representatives. Whenever in this Complaint it is alleged that Defendant omitted any act or thing, it is meant that Defendant, Defendant's officers, agents, servants, employees, and/or representatives omitted such act or thing.

**COUNT IX.**

**PRAYER**

WHEREFORE, PREMISES CONSIDERED, the Plaintiff requests that the Defendant be cited in terms of law to appear and answer herein: that upon final trial and hearing hereof, the Plaintiff, Winnie Sims Camp, as Surviving Wife and Personal Representative of Sam Thomas Camp, Deceased, have judgment against the Defendant, in an amount for full value of the loss of life by Sam Thomas Camp; that judgment be entered in favor of Plaintiff, Winnie Sims Camp as Administrator of the Estate of Sam Thomas Camp, Deceased, and against Defendant, for funeral,

burial, medical, and hospital expenses; and in an amount that will fully and adequately compensate for Sam Thomas Camp's personal injuries, pain and suffering prior to death; and for damages suffered and damages and that will continue to be suffered in the future by decedent's wife, the loss of her husband's companionship and protection and mental pain and suffering, and for all damages available under the law. In addition, Plaintiff is entitled to recover damages for the wrongful death of the Decedent and the mental anguish and grief suffered by the statutory beneficiaries; for post judgment interest at the applicable legal rate; for all Court costs incurred in this litigation; and for such other and further relief, at law and in equity, both general and special, to which the Plaintiff and statutory beneficiaries may show themselves entitled and to which the Court believes Plaintiff deserves.

Respectfully Submitted,

By: 

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